

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Asghar, et al  
Serial No. : 09/381,055 (U.S. National Stage  
of International Application No. PCT/SE99/00702)  
Examiner : To Be Assigned  
Filed : September 13, 1999 Group Art Unit: To Be Assigned  
For : NOVEL USE

I hereby certify that this paper is being  
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November 21, 2000.

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Legal Staff

Richard J. Sterner  
Agent Name  
*Richard J. Sterner*  
Signature

35,372  
PTO Reg. No.  
November 21, 2000  
Date of Signature

## BOX PCT

The Assistant Commissioner for Patents  
Washington, D.C. 20231

**PETITION UNDER 37 CFR §1.181(a)**  
**TO WITHDRAW HOLDING OF ABANDONMENT**

Sir:

This is in response to the Notification of Abandonment, Form  
PCT/DO/EO/909, mailed October 24, 2000. Referring to 37 CFR  
§1.495(b)(2), the Notification states that the instant  
application was abandoned because "Applicant has failed to  
provide the full U.S. Basic National Fee by 30 months."  
Applicants hereby request that the Notification be withdrawn, as  
it was issued in error.

In the Transmittal Letter to the United States Designated  
Office filed concurrently with the instant application on

September 13, 1999, authorization was given to charge the basic filing fee, and, for that matter, all fees associated with the filing of the application, to a valid deposit account, Deposit Account No. 23-1703. In a telephone discussion on November 7, 2000 between the paralegal who issued the Notification and Applicants' agent, the paralegal acknowledged the presence of the authorization in the transmittal papers. The paralegal further stated to Applicants' agent that she had attempted on September 17, 2000 to charge the application filing fee to the deposit account designated by Applicants but the deposit account had insufficient funds at that time. However, this cannot have been the case.

Applicants provide herewith copies of the monthly deposit account statements for September and October of this year, statements actually prepared by the USPTO. As can be seen from the enclosed statement for September, Applicants' deposit account balance on September 15, 2000 was \$26,805.56. Following six charges, totalling \$2,490.00, to the account on September 19, the balance was \$24,315.56, still an amount more than ample to cover the filing fees for the instant application; no charges were made between those two dates. Obviously, then, the Notification of Abandonment was issued in error.

Applicants also wish to point out that, although the instant application was transmitted to the United States Designated Office on September 13, 1999, apparently no attempt was made to charge the required filing fee to the designated deposit account

until September 17, 2000, more than a year after the filing date. This is to be contrasted to the situation in, for example, coassigned application Serial No. 09/380,988, which was filed on the same date as the instant application. In the case of the coassigned application, Applicants' records, provided by the PTO, show that the filing fee was posted against the deposit account on December 8, 1999, less than three months after the date of filing and more in keeping with what would normally be expected in these matters.

Applicants also note that although no attempt was made to charge the basic filing fee for the instant application until most of the 30-month period had passed, the Notification of Abandonment was nonetheless issued hastily enough that it was premature. The October 24, 2000 mailing date of the Notification fell prior to the expiry of the 30-month period following the priority date, i.e., October 28, 2000.

The enclosed deposit account statements for September and October of this year also show that from the time the attempt was made to deduct the filing fee from the deposit account, i.e., September 17, 2000, to the expiration date of the 30-month period, i.e., October 28, 2000, there was continuously more than sufficient money in the account to absorb the full basic filing fee for the instant application.

Applicants have maintained the deposit account for more than 10 years and have been conscientious throughout about maintaining a level of funds sufficient to absorb any and all charges. There

have never been any instances, including the present one, where there were not, in actual fact, sufficient funds to meet a charge brought against the account; a check of the PTO records will verify this statement. More particularly, a check of the PTO records will not only verify that there were sufficient funds in the account on September 17, 2000 and through October 28, 2000 but also from September 13, 1999 through October 28, 2000, i.e., the entire period between the transmittal of the instant application to the U.S. Designated Office and the expiration of 30 months from the priority date.

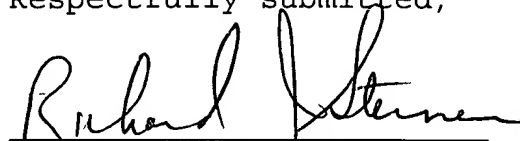
It is apparent from the facts set forth herein and the accompanying documents that 1) authorization was given to charge the required filing fee to a valid deposit account; 2) there were more than sufficient funds present in the account every day from the filing date of the application through the expiration date of the 30-month period, including the date that the attempt to charge the deposit account was allegedly made; 3) the Notification of Abandonment was issued prior to the expiration of the statutory 30-month period during which the filing fee could have been paid; and, therefore, that 4) the Notification of Abandonment was issued in error.

It is respectfully requested that the holding of abandonment be withdrawn, that the required filing fees be charged to Deposit Account No. 23-1703, and, since the 30-month date has now passed, that the application be properly processed and brought forward for examination on the merits in the U.S.

No fee should be due in connection with this Petition.  
However, should it be determined that a fee is required for any  
reason, the Assistant Commissioner is hereby authorized to charge  
it to Deposit Account No. 23-1703.

Dated: November 21, 2000

Respectfully submitted,



Richard J. Sterner  
Reg. No. 35,372

Applicants' Agent  
Customer No. 007470  
(212) 819-8200

Agent's Direct line:  
(212) 819-8783

**Enclosures**



UNITED STATES DEPARTMENT OF COMMERCE  
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MONTHLY STATEMENT  
OF DEPOSIT ACCOUNT

To replenish your Deposit Account, detach and  
return top portion with your check. Make check  
payable to Commissioner of Patents & Trademarks.

Account No.	231703
Date	9-29-00
Page	1

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DATE POSTED			CONTROL NO.	DESCRIPTION (Serial, Patent, TM, Order)	DOCKET NO.	FEE CODE	CHARGES/ CREDITS	BALANCE
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9	12	00	211	09249417	16311077-0021	131	✓ 105H 690.00	29497.56
9	12	00	212	09249417	16311077-0021	103	✓ 129H 90.00	29407.56
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9	12	00	214	09249417	16311077-0021	116	✓ 106H 380.00	28715.56
9	12	00	215	09249417	16311077-0021	126	✓ 111H 240.00	28475.56
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9	13	00	129	09653779	1108334-0433	101	✓ 105H 690.00	26915.56
9	14	00	604	5001161	1103326-0393	569	✓ 119H 50.00	26865.56
9	15	00	540	09037470	1108334-0422	567	✓ 120H 60.00	26805.56
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9	20	00	9	5643602	1103326-002	145	✓ 113H 100.00	23955.56
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9	22	00	104	29129586	1103326-0634	581	✓ 122H 40.00	23225.56
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OPENING BALANCE

TOTAL CHARGES

TOTAL CREDITS

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MONTHLY STATEMENT  
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DATE POSTED			CONTROL NO.	DESCRIPTION (Serial, Patent, TM, Order)	DOCKET NO.	FEE CODE	CHARGES/ CREDITS	BALANCE
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pg 1  
credit applied  
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AN AMOUNT SUFFICIENT TO  
COVER ALL SERVICES REQUESTED  
MUST ALWAYS BE ON DEPOSIT.

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TOTAL CREDITS  
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CLOSING BALANCE  
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**Deposit Account Statement**

Requested Statement Month: October 2000  
Deposit Account Number: 231703  
Name: WHITE & CASE  
Attention: PATENT DEPARTMENT  
Address: 1155 AVE OF THE AMERICAS  
City: NEW YORK  
State: NY  
Zip: 10036-2787

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START	SUM OF	SUM OF	END
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